

Decision 05-11-015 November 18, 2005

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking for Purposes of  
Amending the Rules of Practice and Procedure to  
Reflect Internet Access to the Agenda and  
Agenda Item Documents.

Rulemaking 05-07-015  
(Filed July 21, 2005)

**OPINION ADOPTING PROPOSED AMENDMENT TO RULES 79 AND 80**

In today's decision, we adopt without change our proposed amendments to Rules 79 and 80 of the Commission's Rules of Practice and Procedure (Rules) as set forth in the Order Instituting Rulemaking (OIR). With the adoption of these amendments to the Rules (attached as appendix to this decision), we eliminate hard copy service of the agenda of Commission meetings to any person who has consented to e-mail service in a proceeding pursuant to Rule 2.3, we eliminate the option of receiving hard copies of the agenda item materials, and we end our Daily Calendar subscription service. All of these materials are easily available to the public from the Commission's Internet site.

**Discussion**

Chapter 1110 (Escutia) of the 1994 statutes, added § 311.5 to the Pub. Util. Code, which requires the Commission to make available to the public copies of the agenda and agenda item documents that are proposed to be considered by the Commission for action or decision at a Commission meeting. In 1995, the

Commission adopted Rules 79 and 80 (Title 20, Division 1, Chapter 1 of the California Code of Regulations) to implement Pub. Util. Code § 311.5. The Rules provide that the Commission will make the agenda and agenda item documents available for viewing at the Commission's office, and create a subscription service for requesting members of the public. Three years later, Chapter 886 (Calderon) of the 1998 statutes amended Pub. Util. Code § 311.5 to require the Commission to also publish the agenda and agenda item documents, as well as other Commission documents, on the Commission's Internet site.

The Commission has fully implemented Pub. Util. Code § 311.5 by making copies of the agenda and agenda item materials easily available to the public from the Commission's Internet site. Consequently, we amend Rule 79 to eliminate hard copy service of the agenda to any person who has consented to e-mail service in a proceeding pursuant to Rule 2.3, we amend Rule 80 to eliminate the option of receiving hard copies of the agenda item materials, and we end our Daily Calendar subscription service. In sum, the proposed modifications reduce administrative burden while preserving enhanced access to Commission documents.

### **Comments on Proposed Rule Amendment**

Following issuance of the OIR, the Chief Administrative Law Judge (ALJ) sent our Notice of Proposed Regulatory Action to the Office of Administrative Law which duly printed the notice in the California Regulatory Notice Register of August 5, 2005. The OIR was also sent to persons on a service list commonly used for such procedural purposes. No comments were received during the comment period. Consequently, no changes have been made to the proposed rule.

## **Waiver of Comment Period**

Pursuant to the Commission's Rules of Practice and Procedure Rule 77.7(f)(8), the draft decision of the ALJ was not circulated for further public review, as the opportunity to comment directly on the proposed Rule already has been provided.

## **Assignment of Proceeding**

Commissioner John Bohn is the Assigned Commissioner and Hallie Yacknin is the Assigned ALJ in this proceeding.

## **Findings of Fact**

1. The Commission's Rules (Title 20, Division 1, Chapter 1 of the California Code of Regulations), as proposed to be amended in the OIR, would reasonably meet the requirements of Pub. Util. Code § 311.5 and Gov. Code §§ 11125 and 11125.3 by preserving enhanced access to Commission documents while reducing administrative burden. The proposed amendments to Rules 79 and 80 are shown in appendix to today's decision.

2. The Commission's Notice of Proposed Regulatory Action was duly submitted to the Office of Administrative Law and printed in the California Regulatory Register of August 5, 2005 (Register 2005, No. 31-Z, pp. 1141-1142).

3. The OIR was also served on those persons appearing on a service list commonly used for such procedural purposes. While other persons could request to be placed on the service list, no request was made.

4. The comment period remained open for 45 days following the publication of the Notice of Proposed Regulatory Action and the service of the OIR.

5. No comments were filed in this rulemaking.

6. It is reasonable to adopt the proposed amendments to Rules 79 and 80, as shown in appendix, as originally proposed.

### **Conclusions of Law**

1. The Commission should adopt the proposed amendments to Rules 79 and 80 shown in appendix.
2. In order to provide guidance as soon as possible to all persons concerned with the Commission's decisionmaking process, this decision should be effective immediately.
3. This rulemaking should be closed.

### **O R D E R**

#### **IT IS ORDERED** that:

1. Pursuant to the Commission's Rules of Practice and Procedure Section 77.7(f)(8), public review and comment on the draft decision is waived.
2. The amendments to Rules 79 and 80 of the Rules of Practice and Procedure, as shown in appendix to today's decision, are adopted.
3. The Chief Administrative Law Judge shall take all appropriate steps to submit the newly adopted rules to the Office of Administrative Law and may make such format changes as are appropriate for printing the newly adopted rules in the California Code of Regulations.
4. Rulemaking 05-07-015 is closed.

This order is effective today.

Dated November 18, 2005, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
DIAN M. GRUENEICH  
JOHN A. BOHN

Commissioners

## APPENDIX

### Proposed Amendment to Article 19 of the Commission's Rules of Practice and Procedure

#### Article 19. Submission of Proceedings; Procedures for Comments and Replies to Comments; Commission Meeting

##### 79. (Rule 79) Meeting Agenda.

(a) At least ten days in advance of the Commission meeting, the Commission will issue an agenda for the meeting listing the items of business to be transacted or discussed: by publishing it on the Commission's Internet website. ~~Requests for subscriptions to the agenda or for individual copies of the agenda should be directed to the Management Services Division.~~ The agenda is also available for viewing and photocopying (for a fee) at the Process Office.

(b) Members of the public, other than parties who have consented to e-mail service in a proceeding pursuant to Rule 2.3, may place a standing order with the Commission's Management Services Division to subscribe to receive hard copies of the agenda.

~~(b)~~ (c) A matter not appearing on the agenda of a meeting will not be decided unless:

(1) The Commission determines by majority vote that an unforeseen emergency situation (Rule 81) exists; or

(2) The Commission determines by a two-thirds majority (or, if less than two-thirds of the Commissioners are present, by a unanimous vote of those Commissioners present) that a need to take immediate action exists and that the need for this action came to the Commission's attention after the agenda for the meeting was issued.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306(b) and 311.5, Public Utilities Code; Sections 11125(b) and 11125.3, Government Code.

**80. (Rule 80) Agenda Item Documents.**

(a) Before each Commission meeting, the Commission will make available to the public all draft orders, decisions, resolutions, alternates (other than alternates addressed in Rule 77.6), and written reports appearing on the agenda, except those documents relating to items the Commission considers during its closed session, by publishing them on the Commission's Internet website.

~~(b) Members of the public may place a standing order with the Commission's Management Services Division to receive for a fee all agenda item documents or only those agenda item documents relating to a particular industry.~~ Agenda item documents are also available for viewing and photocopying (for a fee) at the Commission's Central Files in San Francisco and at the Commission's Los Angeles and San Diego offices, and may be available in certain of the Commission's field offices. If agenda item documents are not ready when the agenda is issued, they will be available at no charge at 9 a.m. on the day and at the location of the Commission meeting.

~~(c) If the Commission has found that a party's participation or intervention in a proceeding without an award of fees or costs would pose a significant financial hardship (see Public Utilities Code § 1803(b)), or if the party has filed and has pending a showing of significant financial hardship (see Public Utilities Code § 1804(a), (b)), the party is eligible to receive agenda item documents at no charge.~~

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311.5, ~~1803 and 1804~~, Public Utilities Code; Section 11125.1, Government Code.

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**(END OF APPENDIX)**